

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	8:08CR456
)	
v.)	
)	
JAMES ANTHONY HOWARD,)	ORDER
)	
Defendant.)	
)	

This matter is before the Court on defendant's statement of objections (Filing No. 33) in which he objects to the report and recommendation of the magistrate judge (Filing No. 29), recommending that the motion to suppress (Filing No. 16) be denied. The defendant has also filed a brief in support of his objections (Filing No. 34). The Court notes that the government has not filed a response to defendant's objections or brief. The Court has reviewed defendant's statement of objections and supporting brief and has reviewed the transcript of the hearing before the magistrate judge, as well as his report and recommendation.

Essentially, this review involves the question of the credibility of the two police officers. The magistrate judge had the opportunity to observe their testimony and to review the exhibits received in evidence and this Court finds that the evidence supports his findings. For these reasons, the Court will adopt the report and recommendation of the magistrate judge and deny defendant's objections. Accordingly,

IT IS ORDERED:

- 1) The report and recommendation of the magistrate judge is approved and adopted;
- 2) Defendant's motion to suppress is denied;
- 3) Trial of this matter is scheduled for:

Monday, June 22, 2009, at 9 a.m.

Courtroom No. 5, Roman L. Hruska United States Courthouse, 111 South 18th Plaza, Omaha, Nebraska, or as soon thereafter as may be called by the Court. To accommodate the schedule of the Court and to give the parties time to prepare for trial, the ends of justice will be served by continuing this case and outweigh the interests of the public and the defendant in a speedy trial. The additional time between May 26, 2009, and June 22, 2009, shall be deemed excludable time in any computation of time under the requirement of the Speedy Trial Act. 18 U.S.C. § 3161(h)(8)(A) & (B).

DATED this 26th day of May, 2009.

BY THE COURT:

/s/ Lyle E. Strom

LYLE E. STROM, Senior Judge
United States District Court